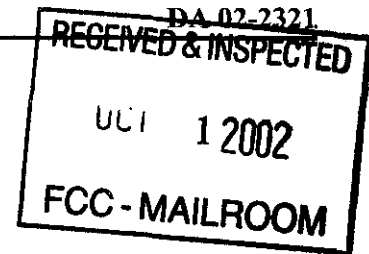


Federal Communications Commission

DA 02-2321

Before the  
Federal Communications Commission  
Washington, D.C. 20554



In the matter of	)	
	)	
Amendment of Section 73.202(b),	)	
FM Table of Allotments,	)	
FM Broadcast Stations.	)	
	)	
(O'Brien, Texas)	)	MB Docket No. 02-296
	)	RM-10571
	)	
(Stamford, Texas)	)	MB Docket No. 02-297
	)	RM- 10572
	)	
(Panhandle, Texas)	)	MB Docket No. 02-298
	)	RM-10574
	)	
(Shamrock, Texas)	)	MB Docket No. 02-299
	)	RM- 10575
	)	
(Colorado City ,Texas)	)	MB Docket No. 02-300
	)	RM- 10576
	)	
(Broken Bow, Oklahoma)	)	MB Docket No. 02-301 ✓
	)	RM-10578
	)	
(Taloga, Oklahoma)	)	MB Docket No. 02-302
	)	RM-10579

### NOTICE OF PROPOSED RULEMAKING

**Adopted: September 11, 2002**

**Released: September 27, 2002**

**Comments Date: November 18, 2002**

**Reply Comment Date: December 3, 2002**

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a multiple docket *Notice of Proposed Rule Making* setting forth four separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each proposal involves new allotment to the community of license. Each petitioner states that it will file an application for construction and participate at auction if granted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in response to a Commission *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rule Making*. Each proposal has its own docket and rulemaking number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions by avoiding duplicative actions. We request comments and/or counterproposals for the following proposals:

**A. MB Docket No. 02-296; RM-10571**

**Petitioner:** Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214

**Proposal:** Allot Channel 261A at O'Brien as the community's first local service.

**Channel**

<b><u>Community</u></b>	<b><u>Present</u></b>	<b><u>Proposed</u></b>
O'Brien, Texas	---	261A

Coordinates: 33-24-47 NL and 99-51-02 WL.

**Additional Information:** Channel 261A can be allotted at O'Brien at a site 3.7 kilometers (2.3 miles) north of the community. Petitioner states that the community has a population of 163 persons, according to the Texas State Data Center. It has a mayor, city hall, post office, school district and churches. We seek comment on the community status of O'Brien, Texas. Petitioner is requested to submit additional documentation on this issue and on the public interest benefits of the allotment.

**FCC Contact:** Victoria McCauley (202) 418-2180.

**B. MB Docket No. 02-297; RM-10572**

**Petitioner:** Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214

**Proposal:** Allot Channel 233A at Stamford, Texas, as the community's third local aural service.

**Channel**

<b><u>Community</u></b>	<b><u>Present</u></b>	<b><u>Proposed</u></b>
Stamford, Texas	295C2	295C2, 233A

Coordinates: 33-00-57 NL and 99-47-46 WL.

**Additional Information:** Channel 233A may be allotted at Stamford with a site restriction of 7.8 kilometers (4.9 miles) north of the community. Stations KOES(FM) and KVRP(AM) are also licensed to the community.

**C. MB Docket No. 02-298; RM-10574**

**Petitioner:** Linda Crawford  
3500 Maple Avenue #1320  
Dallas, Texas 75219

**Proposal:** Allot Channel 291C3 at Panhandle, Texas, as the community's first local aural

transmission service.

		<u>Channel</u>
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Panhandle, Texas	---	291C3

Coordinates: 35-20-38 NL and 101-10-54 WL.

**Additional Information:** Channel 291C3 can be allotted to Panhandle with a site restriction of 18.0 kilometers (11.2 miles) east of the community. Petitioner states that the community of Panhandle is incorporated with a population in excess of 2,275 persons. It is the county seat of Carson County, Texas. It has a mayor, city hall and fire department. It also has a post office, school system, and local churches. It is not within an urbanized area and neither the 70dBu nor the 60 dBu contour encompasses an urbanized area. We seek comment on the community status of Panhandle. Petitioner is requested to additional documentation on this issue and on the public interest benefits of the allotment.

**D. MB Docket No. 02-199; RM-10575**

**Petitioner:** Maurice Salsa  
5615 Evergreen Valley Drive  
Kingwood, Texas 77345

**Proposal:** Allot Channel 271A at Shamrock, Texas, as the community's second local aural transmission service.

		<u>Channel</u>
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Shamrock, Texas	224A	224A, 271A

Coordinates: 35-12-22 NL and 100-16-23 WL.

**Additional Information:** Channel 271A can be allotted at Shamrock with a site restriction of 2.4 kilometers (1.5 miles) west of the community.

**E. MB Docket No. 02-300; RM-10576**

**Petitioner:** Linda Crawford  
3500 Maple Avenue #1320  
Dallas, Texas 75219

**Proposal:** Allot Channel 257A at Colorado City, Texas as the community's third local aural transmission service.

		<u>Channel</u>
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Colorado City, Texas	296A	257A, 296A

Coordinates: 32-26-23 NL and 100-57-29 WL.

**Additional Information:** Channel 257A can be allotted at Colorado City with a site restriction of 10.1 kilometers (6.3 miles) northwest of the community.

**F. MB Docket No. 02-301; RM-10578**

**Petitioner:** Jeraldine Anderson  
1702 Cypress Drive  
Irving, Texas 75061

**Proposal:** Allot Channel 232A at Broken Bow, Oklahoma, as the community's third FM channel.<sup>1</sup>

<u>Channel</u>		
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Broken Bow, Oklahoma	291C2	232A, 291C2

Coordinates: 34-04-37 NL and 94-38-58 WL.

**Additional Information:** Channel 232A can be allotted at Broken Bow with a site restriction of 10.2 kilometers (6.3 miles) northeast of the community. This proposal is short-spaced to a dismissed proposal for Channel 232C3 at Clayton, Oklahoma, which should be final prior to the final Report and Order in this docket.

**G. MB Docket No. 02-302; RM-10579**

**Petitioner:** Robert Fabian  
4 Hickory Crossing Lane  
Argyle, Texas 76226

**Proposal:** Allot Channel 226A at Taloga, Oklahoma, as the community's first local aural transmission service.

<u>Channel</u>		
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Taloga, Oklahoma	---	226A

Coordinates: 35-57-57 NL and 98-59-11 WL.

**Additional Information:** Channel 226A can be allotted at Taloga with a site restriction of 7.8 kilometers (4.8 miles) south of the community. Petitioner states that the community has a population of more than 350 persons, and that it has its own mayor, volunteer fire department, school district and a number of local churches. It claims that allotment of the channel is in the public interest because it will provide additional diversity and an outlet for local self-expression to the residents of Taloga. We seek comment on the community status of Taloga. Petitioner is requested to provide additional documentation on this

<sup>1</sup> A proposal to allot Channel 285A at Broken Bow from August 2001 is still pending.

issue and on the public interest benefits of the allotment.

3. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before **November 18, 2002**, and reply comments on or before **December 3, 2002**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as listed above for each docket.

4. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.<sup>2</sup>

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an

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<sup>2</sup> See *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549 (February 9, 1981).

*ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau

Attachment: Appendix

## APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioner. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.